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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

ARISTA NETWORKS, INC.,

Defendant.

CASE NO. 5:14-cv-5344-BLF (NC)

**CISCO'S AMENDED PROPOSED  
VERDICT FORM**

Judge: Hon. Beth Labson Freeman

1  
2  
3                   **YOUR ANSWERS MUST BE UNANIMOUS.**  
4  
5

6  
7                   **CISCO'S CLAIM FOR COPYRIGHT INFRINGEMENT**  
8

9:       Has Cisco proven by a preponderance of the evidence that Arista infringed any of Cisco's  
10 copyrighted works?  
11

12                   YES (Infringed)      NO (Not infringed)  
13                   \_\_\_\_\_                  \_\_\_\_\_  
14

15  
16       **IF YOU ANSWERED "YES" TO QUESTION 1, PLEASE ANSWER QUESTION 2. IF  
17       YOU ANSWERED "NO" QUESTION 1, PLEASE GO TO QUESTION 4.**  
18

19:       For the copyrighted works that you found infringed in Question 1, has Arista proven by a  
20 preponderance of the evidence that Arista's infringement of all of those copyrighted works was  
21 excused by any of the following affirmative defenses?  
22

23                   YES (Excused)      NO (Not excused)  
24                   \_\_\_\_\_                  \_\_\_\_\_  
25                   a.     Fair use                  \_\_\_\_\_                  \_\_\_\_\_  
26                   b.     Merger                  \_\_\_\_\_                  \_\_\_\_\_  
27                   c.     Scènes à faire          \_\_\_\_\_                  \_\_\_\_\_  
28                   d.     Copyright misuse        \_\_\_\_\_                  \_\_\_\_\_  
29                   e.     Abandonment          \_\_\_\_\_                  \_\_\_\_\_

1 **IF YOU ANSWERED “YES” TO ANY ONE OR MORE OF THE AFFIRMATIVE  
2 DEFENSES LISTED IN QUESTION 2, PLEASE GO TO QUESTION 4. IF YOU  
3 ANSWERED “NO” TO ALL OF THE AFFIRMATIVE DEFENSES LISTED IN  
4 QUESTION 2, PLEASE ANSWER BOTH QUESTIONS 3(a) AND 3(b).**

5(a): What amount of Cisco’s lost profits is Cisco entitled to recover as a result of Arista’s  
6 copyright infringement?

7 \$ \_\_\_\_\_

8 3(b): What amount of Arista’s unlawful profits is Cisco entitled to recover as a result of Arista’s  
9 copyright infringement?

10 \$ \_\_\_\_\_

### **CISCO’S CLAIM FOR PATENT INFRINGEMENT**

15 4. Has Cisco proven by a preponderance of the evidence that Arista has directly infringed the  
16 following claims of the ’526 patent?

	YES (Infringed)	NO (Not infringed)
a. Claim 1	_____	_____
b. Claim 14	_____	_____

22 5. Has Cisco proven by a preponderance of the evidence that Arista induced infringement the  
23 following claims of the ’526 patent?

	YES (Infringed)	NO (Not infringed)
a. Claim 1	_____	_____
b. Claim 14	_____	_____

6. Has Cisco proven by a preponderance of the evidence that Arista contributorily infringed the following claims of the '526 patent?

YES (Infringed)      NO (Not infringed)

a.      **Claim 1** \_\_\_\_\_

b.      **Claim 14** \_\_\_\_\_

**IF—FOR ANY CLAIM OF THE '526 PATENT—YOU ANSWERED “YES” FOR INFRINGEMENT (ANY ONE OF QUESTIONS 4, 5 OR 6), THEN PLEASE ANSWER BOTH QUESTIONS 7 AND 8. OTHERWISE, SKIP TO THE END OF THIS VERDICT FORM AND SIGN AND DATE IT.**

7. What amount of damages is Cisco entitled to recover as a result of Arista's patent infringement?

\$ \_\_\_\_\_

8. Has Cisco proven that Arista's patent infringement was willful?

**YES (Willful)**      **NO (Not willful)**

**PLEASE DATE AND SIGN BELOW.**

Dated: \_\_\_\_\_

## **FOREPERSON**

1 Dated: December 7, 2016

Respectfully submitted,

2 /s/ John M. Neukom

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Attorneys for Plaintiff Cisco Systems, Inc.